

(D) *Use of a radio-controlled locomotive* in the rear third of the train under continuous control of the engineer in the head end by means of telemetry, but only if such radio-controlled locomotive is capable of initiating an emergency application on command from the lead locomotive.

(2) Once such a train has received the required brake test at Barstow, ATSF must test the emergency braking capacity of the train by initiating an emergency application of the brakes and determining that the emergency application propagates throughout the train. Where no EOT device is used, this determination must be made by visual observation that the brakes have set on the rear car. Where an EOT device is used, this determination is made by seeing that the brake pipe pressure drops rapidly to zero.

(3) ATSF shall immediately report to the Emergency Response Center (1-800-424-0201) any incidents involving loss of braking control over the affected territory.

#### Relief

ATSF may obtain relief from this order by demonstrating to FRA that, through compliance with this order and any additional measures ATSF may adopt on its own or through partnership efforts described below, it is consistently sending trains westward from Barstow with fully functioning air brake systems that can be successfully operated in emergency application from the rear of the train through use of one of the methods described above. At a minimum, FRA will require a showing that, for a period of 180 consecutive days, there has been no violation of this order. Following such a 180-day period, ATSF may request in writing to the Administrator that FRA rescind this order. At that time, FRA will take into account both evidence indicating compliance with this order and any other information it has gathered concerning ATSF's relevant practices that may affect the safety of train operations at Cajon Pass.

FRA will, at any time, consider requests by ATSF to exclude certain train operations from the scope of this order based on satisfactory demonstration that those operations can be safely performed using other procedures. However, all aspects of this order apply to all westward trains departing Barstow unless and until written special approval is granted permitting other procedures for specific train operations. The Associate Administrator for Safety is authorized to issue such special approvals without amending this order.

#### Effective Safety Partnerships

Over the past year, FRA has been encouraged by the formation of various partnerships involving FRA, major railroads, and affected labor organizations in collaborative actions to improve railroad safety. FRA is ready to work in partnership with ATSF and the affected labor organizations to improve the safety of operations in the Cajon Pass area in the same way that such partnerships have improved safety across the industry.

#### Penalties

Any violation of this order shall subject the person committing the violation to a civil penalty of up to \$20,000. 49 U.S.C. 21301. FRA may, through the Attorney General, also seek injunctive relief to enforce this order. 49 U.S.C. 20112.

#### Effective Date and Notice to Affected Persons

This order shall take effect at 12:01 a.m. (PST) on February 8, 1996, and apply to all westward trains leaving Barstow on or after that time. Notice of this Order will be provided by publishing it in the Federal Register. Copies of this Emergency Order will be sent by mail or facsimile prior to publication to the Vice President-Operations of ATSF, counsel for ATSF, officials of interested labor organizations, the California PUC, and the Association of American Railroads.

#### Review

Opportunity for formal review of this Emergency Order will be provided in accordance with 49 U.S.C. 20104(b) and section 554 of Title 5 of the United States Code. Administrative procedures governing such review are found at 49 CFR Part 211. See 49 CFR §§ 211.47, 211.71, 211.73, 211.75, and 211.77.

Issued in Washington, D.C. on February 6, 1996.

Jolene M. Molitoris,  
*Administrator.*

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#### [FRA Docket No. RST-95-2]

#### Petition for Waiver of Compliance

In accordance with Title 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) received from the National Railroad Passenger Corporation (Amtrak), on behalf of the San Diego Northern Railway (SDNX), a request for a waiver of compliance with certain

requirements of Title 49 CFR Part 213: **TRACK SAFETY STANDARDS.**

The purpose of the petition is to secure approval from the FRA for the operation of passenger trains at curve negotiating speed producing up to four inches of cant deficiency (superelevation underbalance). Currently, Section 213.57(b) limits cant deficiency to not more than three inches.

Amtrak is the designated operator of Coaster Commuter Service and Amtrak trains on the SDNX route that extends from a location near Oceanside to San Diego, CA. Amtrak petitioned for permission to substitute the value of 4 inches instead of 3 inches in the Vmax formula for determining maximum train speeds on the curves on this route.

Interested parties may submit written views, data, or comments on this petition. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires and opportunity for comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communication concerning this proceeding should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST-95-2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received within 45 days of the date of publication of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC, on February 1, 1996.

Phil Olekszyk,

*Deputy Associate Administrator for Safety Compliance and Program Implementation.*

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